

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

06-278

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Typed or printed

name _____

Application Number

10/576,743

Filed

January 9, 2007

First Named Inventor

John Hillel Moshal

Art Unit

3714

Examiner

Lim, Seng Heng

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 41,962

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Richard A. Machonkin

Signature

Richard A. Machonkin

Typed or printed name

(312) 913-0001

Telephone number

July 16, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 06-278)

In the Application of:)	
)	
John Hillel Moshal)	Art Unit: 3714
)	
Serial No.: 10/576,743)	
)	
Filed: January 9, 2007)	Examiner: Lim, Seng Heng
)	
For: Redundant Gaming System)	Confirmation No. 8207

REASONS FOR REVIEW OF FINAL REJECTION

Applicant requests review of the final rejection mailed on April 24, 2008, because the Examiner has clearly erred in rejecting the claims.

1. The Claimed Invention

Claims 26-40, of which claims 26 and 34 are independent, are directed to gaming systems and methods, in which a “watchdog facility” determines whether the status of a primary gaming server is “active” or “failed.” In particular, claim 26 recites “a watchdog facility configured to (i) transmits a data packet to the primary gaming server at regular intervals and (ii) whenever an expected response is not received from the primary gaming server within a predetermined time interval, to change a status of the primary gaming server from active to failed.” Claim 34 includes similar language.

Further, a “controller” in a player station routes a request to provide an outcome of a turn of the game based on this status, routing the request to the primary gaming server when the status is “active” and routing the request to a secondary gaming server

when the status is “failed.” In particular, claim 26 recites “a controller in the at least one player station for routing a request to provide an outcome of a turn of a game of chance, wherein the controller routes the request to the primary gaming server when the status of the primary gaming server is active and routes the request to the secondary gaming server when the status of the primary gaming server is failed.” Claim 34 includes similar language.

2. Status of the Claims

Claims 26-40 are currently pending and stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakamoto, U.S. Patent No. 5,989,121 (“Sakamoto”) in view of Pease et al, U.S. Patent No. 5,326,104 (“Pease”) and Crumby, U.S. Patent No. 6,533,664 (“Crumby”).

3. The Examiner’s Clear Error

a. The Sakamoto/Pease/Crumby combination does not teach the claimed “watchdog facility”

The Examiner has relied on Crumby as allegedly teaching the claimed “watchdog facility.” *See* Final Office Action, pp. 5 and 7. In particular, the Examiner has cited to the “lost link” procedure described in Crumby at col. 6, line 64 – col. 7, line 16.

However, the claimed “watchdog facility” functions by transmitting a data packet to the primary server at regular intervals and determining whether the expected response is received within a predetermined time interval. Crumby does not disclose this specific procedure. Instead, what Crumby discloses is that “[t]he gaming terminal microprocessor ... determines ... whether the communications link with the central computer appears to be currently active, e.g., whether any communications with the central computer has occurred within the last 1000 milliseconds.” *See* col. 7, lines 1-6. Thus, Crumby

discloses a determination of inactivity (e.g., after 1000 milliseconds), but Crumby does not disclose that the determination is made by transmitting a data packet at regular intervals. *See* Response filed 2/8/08, pages 6-7.

In response to this analysis, the Examiner has argued that “[t]he gaming machine implicitly sends data packet to the RNG at regular intervals in order to determined inactivity of the RNG during the communication.” *See* Final Office Action, p. 5. Thus, the Examiner has taken the position that Crumby *inherently* discloses the claimed approach of transmitting a data packet at regular intervals. However, the Examiner has not met the Examiner’s burden of establishing inherency:

In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied art.

See MPEP § 2112 (IV).

In this case, the Examiner has not provided any reason why the gaming terminal in Crumby would *necessarily* determine inactivity by transmitting a data packet at regular intervals. For example, instead of the *gaming terminal* transmitting data at regular intervals, the *central computer* could be configured to transmit data to the gaming terminal at regular intervals. That way, if the gaming terminal does not receive the data within the expected time period, the gaming terminal would be able to determine that the communication link with the central computer has been lost.

Crumby simply does not disclose enough detail regarding how inactivity is determined for the Examiner (or anyone else) to be able to conclude that inactivity is *necessarily* determined by having the gaming terminal transmit data at regular intervals. The mere *possibility* that the gaming terminal could transmit data at regular intervals is

insufficient to establish inherency. *See* MPEP § 2112(IV)(“Inherency, however, may not be established by probabilities or possibilities.”).

The Examiner cannot establish that Crumby inherently discloses a “watchdog facility” that transmits “a data packet to the primary gaming server at regular intervals,” as recited in independent claims 26 and 34. Therefore, the Examiner’s claim rejections are clearly erroneous and must be reversed.

b. The Sakamoto/Pease/Crumby combination does not teach the claimed “controller”

Applicant’s Response filed 2/8/08 established that Sakamoto, Pease, and Crumby all fail to disclose a controller in the player station that performs the recited routing function. *See* pages 7-9. In response to this analysis, the Examiner has relied on Pease, arguing as follows:

As disclosed in Pease et al that while in normal operation the main server will control the operation of the game, in case of a failure in mail server, the backup or secondary server can take over operation of the game (18:43-49), which means all requests will be routed to the backup or secondary server when the main server fails.

See Final Office Action, p. 5.

However, the Examiner’s argument that the requests “will be routed” to the backup or secondary server is not sufficient to show that Pease discloses the claimed “controller.” This is because the claims specify that the “controller” *is in the player station*. In particular, claim 26 recites “a controller in the at least one player station ...” and claim 34 recites “a controller in the player station ...” However, the player stations (AWSs 8) in Pease do not perform the routing function of the claimed “controller.” To the contrary, Pease discloses that “[g]ame management is accomplished primarily through workstations 16 connected to the game controller 10 through secure token ring

17.” See col. 18, lines 50-52. Thus, in Pease, workstations 16, not player stations (AWSs 8), would determine whether requests should be routed to main fileserver 13 or to backup fileserver 15 in game controller 10.

The Examiner has not established that Pease, or the other cited art, teaches a controller in the player station that routes a request to the appropriate gaming server, as recited in independent claims 26 and 34. Therefore, the Examiner’s claim rejections are clearly erroneous and must be reversed.

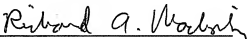
4. Conclusion

For the foregoing reasons, Applicant submits that the Examiner’s rejections of the pending claims are clearly erroneous and that all of the pending claims should be allowed.

Respectfully submitted,

Dated: July 16, 2008

By:


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